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PPLICATION NO	).	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/010,651		12/06/2001	Harry R. Howard JR.	PC11839A 4848	
23913	7590	06/25/2004		EXAMINER	
PFIZER I			RAO, DEEPAK R		
150 EAST 5TH FLOO				ART UNIT	PAPER NUMBER
NEW YOU	RK, NY	10017-5612	•	1624	
				DATE MAILED: 06/25/2004	1

Please find below and/or attached an Office communication concerning this application or proceeding.

-		Application No.	Applicant(s)				
	Advisory Action	10/010,651	HOWARD, HARRY	R.			
	Aurisory Monon	Examiner	Art Unit				
		Deepak R Rao	1624				
	The MAILING DATE of this communication appe	ears on the cover sheet with the c	orrespondence add	lress			
THE REPLY FILED 10 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.							
	PERIOD FOR RE	EPLY [check either a) or b)]					
a) The period for reply expiresmonths from the mailing date of the final rejection. b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).  Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if							
timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).							
1. A Notice of Appeal was filed on 10 June 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.							
2. The proposed amendment(s) will not be entered because:							
(a) they raise new issues that would require further consideration and/or search (see NOTE below);							
(b) they raise the issue of new matter (see Note below);							
(c) they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or							
(d) They present additional claims without canceling a corresponding number of finally rejected claims.							
<u>، ٦</u>	NOTE:	tion(a):					
<ul> <li>3. Applicant's reply has overcome the following rejection(s):</li> <li>4. Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment</li> </ul>							
canceling the non-allowable claim(s).							
5. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because:							
6.	The affidavit or exhibit will NOT be considered bec raised by the Examiner in the final rejection.	ause it is not directed SOLELY t	o issues which wer	e newly			
7.🛛	For purposes of Appeal, the proposed amendment explanation of how the new or amended claims we	t(s) a)⊠ will not be entered or b) ould be rejected is provided belo	)  will be entered a w or appended.	and an			
	The status of the claim(s) is (or will be) as follows:						
	Claim(s) allowed:						
	Claim(s) objected to:						
	Claim(s) rejected: <u>22-23, 25-28, 30</u> .						
	Claim(s) withdrawn from consideration:						
8.	The drawing correction filed on is a) app	roved or b)  disapproved by t	he Examiner.				
9.	Note the attached Information Disclosure Statemen	nt(s)( PTO-1449) Paper No(s)	·				
10.	Other:		$\Omega$	$\mathcal{Q}$			
			Deepak R Rao Primary Examiner Art Unit: 1624	7			
			/ II CIIII. 1044				

U.S. Patent and Trademark Office PTOL-303 (Rev. 11-03) Application/Control Number: 10/010,651

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## **ADVISORY ACTION**

An appeal under 37 CFR 1.191 was filed in this application on June 10, 2004. Appellant's brief is due on August 10, 2004 in accordance with 37 CFR 1.192(a).

The amendment filed June 10, 2004 under 37 CFR 1.116 in reply to the final rejection has been considered but is not deemed to place the application in condition for allowance and will not be entered because:

- 1. There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
- 2. The proposed amendment is not deemed to place the application in better form for appeal by materially simplifying the issues for appeal. Contrary to applicant's arguments, Busch et al., (WO'190) teaches that the 'effective dosage for the atypical antipsychotic agent, ziprasidone, depends on the intended route of administration, the indication to be treated, and other factors', see page 6. Further, the reference provides a recommended range of 5-300 mg/day.

## Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deepak Rao whose telephone number is (571) 272-0672. The examiner can normally be reached on Tuesday-Friday from 6:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Mukund Shah, can be reached on (571) 262-0674. If you are unable to reach Dr. Shah within a 24 hour period, please contact James O. Wilson, Acting-SPE of 1624 at (571) 272-

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0661. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Deepak Rao Primary Examiner Art Unit 1624

June 22, 2004